

**TOWNSHIP COMMITTEE
TOWNSHIP OF MENDHAM
REGULAR MEETING**

DATE: Monday, August 16, 2021

TIME: 7:30 PM

LOCATION: Municipal Building and Remote via Zoom

ROLL CALL

| | |
|---------------|---------|
| Mr. Baio | Present |
| Ms. Duarte | Present |
| Mr. Monaghan | Present |
| Mr. Orlins | Present |
| Mayor Neibart | Present |

Also, present

Mr. John Mills, Township Attorney
Mr. Jason Gabloff, Township Administrator
Mr. Robert Casey
Ms. Maria Coppinger, Township Clerk

SALUTE TO THE FLAG

STATEMENT OF ADEQUATE NOTICE - Read by Mayor Neibart

Adequate Notice of this meeting of the Township Committee of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Observer Tribune and Daily Record on August 3, 2021. Notice was posted on the bulletin board in the township offices and notice was filed with the Township Clerk.

COVID – 19 UPDATE

Mayor Neibart reported on the Covid-19 vaccination statistics.

PROCLAMATION

- National Immunization Awareness Month – Read by Mayor Neibart

RECOGNIZING NEW MEMBERS

The following members have applied to be members of the Brookside Engine Company No. 1. New Members were introduced by Lt. John Kemp.

- Henrik Kaufman, Explorer Member
- Christian Clarke, Junior Member
- Christopher Loguda, Senior Member

PRESENTATION

Hunterdon Area Energy Cooperative (HAEC) – Lisa Hibbs, VP Operations & Government Relations

Ms. Hibbs was unable to attend tonight’s meeting. Mayor Neibart reported that the Township has participated in the cooperative for several years, along with towns in Morris and Hunterdon Counties, in order to realize energy savings. It was reported that an aggregate amount of savings for the township was \$170,000, with individual savings to be minimal. Mr. Casey explained that the township must now decide to opt-out as a whole or for individuals to decide on their own. The Committee agreed that remaining in the cooperative as a whole was beneficial in order to avoid a lapse in coverage during the transition, and that any savings is still positive. It was also mentioned that with the cooperative, energy is derived from renewable sources. Ms. Coppinger will contact Ms. Hibbs to inform her that the township will move forward with the bid.

Presentation by the Historic Preservation Committee on Signs for Pitney Park

Vanessa Brown, Chairperson, mentioned that the committee meets every 1st Wednesday of the month and residents are welcome to submit their information if they are interested in becoming a member. Melissa continued with a power point presentation regarding the rich history of Mendham, and how this history will be displayed on five signs that are being designed and ultimately installed at Pitney Park.

ANNOUNCEMENTS

Committee Members provided their announcements on upcoming events in the Township.

OPEN TO THE PUBLIC

Ms. Duarte made a motion to open the meeting to the public; Seconded by Mr. Orlins.

George Koenig - 13 Northgate Road- Mr. Koenig thanked the committee for all of their volunteer work and their response to the Morris County Agricultural Board. He also requested that a ‘CTRL F’ capability be added to the website for online lookups for ordinances.

Martin Slayne - 26 Indian Hollow Road - Mr. Slayne’s first concern is that there is no sensitivity being given to community concerns raised in the environmental impact assessment regarding Hillandale. The second concern is regarding the municipal building and sustainable energy.

Peter Banos – 47 Ironia Road – Mr. Banos objected to the change in the township noise ordinance from nuisance based to decibel based. He specifically referenced how this would affect the events at the Backer Farm, and asked what the township can do to assist local residents in dealing with the noise that will ensue from concerts at the farm.

Terrill Doyle- 5 Cross Way - Ms. Doyle had several questions related to the farmland assessment information posted on the website, specifically regarding the nitrate dilution study and current groundwater capacity model. She also asked that each committee member explain their intent regarding the noise ordinance change.

Patricia Zimmerman – 3 West Main Street – Ms. Zimmerman expressed her opinion that the proposed Backer Farm brewery is a very bad idea for the township. She also requested that the committee refer to this building not as Town Hall, but as the Municipal Building since it has several uses and the term municipal is a historical one. Ms. Zimmerman pointed out the outstanding work of the student, Mirabella Pierre-Lois, who assisted with the historic information on the signs.

Mr. Baio moved to close the meeting to the public. Ms. Duarte seconded.

Ms. Neibart addressed Ms. Doyle’s concerns noting that the land use element of the Master Plan has been fully passed in June and the proposed noise ordinance should have been addressed long ago; the change has no connection to what is happening currently with the Planning Board (Baker Farm Application).

Ms. Duarte asked that the committee members who serve on the Planning Board give a description of the application process which was provided by Mr. Baio and Mr. Monaghan.

Ms. Duarte mentioned that there is a meeting on Thursday that will address Mr. Slayne’s sustainability concerns.

Mayor Neibart commented that she receives a number of emails regarding the Hillandale and Backer Farm projects, but it is important for the public to understand that she and the Planning Board members are not allowed to answer questions about what occurs at Planning Board meetings; they are legally bound to uphold the application process.

APPROVAL OF MINUTES

Regular Meeting of January 25, 2021
Regular Meeting and Executive Session of February 8, 2021
Regular Meeting and Executive Session of February 22, 2021
Special Meeting and Executive Session of March 1, 2021
Regular Meeting and Executive Session of March 8, 2021
Regular Meeting and Executive Session of March 22, 2021

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | | | X | X | | |
| Ms. Duarte | | X | X | | X | | |
| Mr. Monaghan | | | | | X | | |
| Mr. Orlins | X | | | | X | | |
| Mayor Neibart | | | | | X | | |

Special Meeting and Executive Session of March 31, 2021

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | X | | X | X | | |
| Ms. Duarte | X | | X | | X | | |
| Mr. Monaghan | | | | | X | | |
| Mr. Orlins | | | | | | | X |
| Mayor Neibart | | | | | X | | |

CONSENT AGENDA - RESOLUTIONS

2021-163 Resolution of the Township Committee of the Township of Mendham to Approve Settlement of Real Property Tax Appeals

- 2021-164** Resolution of the Township Committee of the Township of Mendham Authorizing Refund of Overpayment of Taxes Due to NJ State Tax Court Judgment
- 2021-165** Resolution of the Township Committee of the Township of Mendham Authorizing Refund of Overpayment of 2021 Taxes Due to an Overpayment of Taxes by the Mortgage Company or Property Owner
- 2021-166** Resolution of the Township Committee of the Township of Mendham Authorizing Refund of Overpayment of 2021 Taxes as a Result of County Board Tax Judgement

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | X | | | X | | |
| Ms. Duarte | | | X | | X | | |
| Mr. Monaghan | | | | | X | | |
| Mr. Orlins | X | | | X | X | | |
| Mayor Neibart | | | | | X | | |

REGULAR AGENDA - RESOLUTION

- 2021-167** Resolution of the Township Committee of the Township of Mendham Appointing Robert Casey as the Administrative Assistant in the Township of Mendham

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | | | | X | | |
| Ms. Duarte | | | | | | X | |
| Mr. Monaghan | | X | X | | X | | |
| Mr. Orlins | X | | | X | X | | |
| Mayor Neibart | | | | | X | | |

Ms. Duarte explained her ‘no’ vote was due to the fact that this position would not be necessary if the positions (Administrator/Chief Financial Officer) were not merged; she objects to the merge.

- 2021-168** Resolution of the Township Committee of the Township of Mendham Authorizing the Payment of Bills

| TOWNSHIP COMMITTEE | MOTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------|----|---------|
| | | | YES | NO | ABSTAIN |
| Mr. Baio | | X | X | | |
| Ms. Duarte | X | | X | | |
| Mr. Monaghan | | | X | | |
| Mr. Orlins | | | X | | |
| Mayor Neibart | | | X | | |

- 2021-169** Resolution of the Township Committee of the Township of Mendham Authorizing the Award of a Competitive Bidding Contract to J.R. Contracting and Environmental Consulting, Inc., of Wayne, New Jersey for Construction of a Police Facility at 4 West Main Street, Brookside

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | X | | X | | X | | |
| Ms. Duarte | | | | | | | X |
| Mr. Monaghan | | X | | | X | | |
| Mr. Orlins | | | | X | X | | |
| Mayor Neibart | | | | | X | | |

The committee members agreed that a project manager should be considered for this project.

- 2021-170** Resolution of the Township Committee of the Township of Mendham Authorizing an Agreement by and Between Mendham Township and the County of Morris, providing for the Authorization of a Project Entitled,” Traffic Signal Detection Upgrade, East Main Street/Mendham Road (CR 510) And Cold Hill Road, Mendham Township, County of Morris

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | X | | | | X | | |
| Ms. Duarte | | X | X | | X | | |
| Mr. Monaghan | | | | X | X | | |
| Mr. Orlins | | | | | X | | |
| Mayor Neibart | | | | | X | | |

- 2021-171** Resolution of the Township Committee of the Township of Mendham Authorizing the Director of Recreation to Set Forth the Guideline of Expectations for Event Participation

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | X | | | | X | | |
| Ms. Duarte | | X | X | | X | | |
| Mr. Monaghan | | | | x | X | | |
| Mr. Orlins | | | | | X | | |
| Mayor Neibart | | | | | X | | |

Ms. Duarte proposed a friendly amendment to strike the word ‘local’ from point A, non-profits in

order to be more inclusive. Mr. Orlins seconded. All members agreed to approve the amendment.

2021-172 Resolution of the Township Committee of the Township of Mendham Authorizing the Award of a Competitive Bidding Contract to Frank Galbraith and Sons Excavation and Demolition, LLC, for Snow Plowing Services

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | x | X | | X | | |
| Ms. Duarte | | | | X | X | | |
| Mr. Monaghan | | | | | X | | |
| Mr. Orlins | x | | | | X | | |
| Mayor Neibart | | | | | X | | |

2021-173 Resolution of the Township Committee of the Township of Mendham Awarding a Bid Through the Morris County Co-Op Contract# 6 - Road Resurfacing of Various Roads to South State, Inc. of Bridgeton, New Jersey not to Exceed \$435,000

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | X | | | X | X | | |
| Ms. Duarte | | | X | | X | | |
| Mr. Monaghan | | X | | | X | | |
| Mr. Orlins | | | | | X | | |
| Mayor Neibart | | | | | X | | |

ORDINANCE FOR INTRODUCTION

13-2021 An Ordinance of the Township Committee of the Township of Mendham Amending Chapter 229 “Noise”

Public hearing scheduled for September 13, 2021

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | X | | | X | | |
| Ms. Duarte | | | | X | X | | |
| Mr. Monaghan | | | | | X | | |
| Mr. Orlins | X | | X | | X | | |
| Mayor Neibart | | | | | X | | |

Chief Johnson explained that the current ordinance is unenforceable by NJ State law and that the change to a decibel meter reading will be quantifiable and not objective. The Chief mentioned that twelve officers will be trained on decibel readings so that every shift will have an officer available if necessary.

There were some concerns with the language in the ordinance. Attorney Mills agreed that a document should be published making the particulars of the ordinance easy to understand.

Mayor Neibart explained the process for going forward with the ordinance. Anyone who has suggestions for amendments can email the committee, and she reiterated that there is no intention to target any specific entity by making this change.

Mr. Monaghan proposed an amendment to Section 229-2, to changing the word ‘Mayor’ to ‘Administrator’ regarding filing a permit, and ‘Mayor’ to ‘Township Committee’ for issuing a permit. Mr. Orlins seconded. Mayor Neibart questioned whether code enforcement should issue the permit however it was agreed that the wording should reflect the Administrator.

Discussion ensued as to whether entities already engaged in plans for an event would have to apply for a permit or would they be granted an exception. Attorney Mills suggested that the committee take time to compile suggestions, email himself and he and the Chief will compile them for discussion at public hearings.

14-2021 An Ordinance of the Township of Mendham Providing for Various Capital Improvements and Appropriating \$100,000 Therefor from the Capital Improvement Fund - ***Public Hearing scheduled for September 13, 2021***

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | | | | | X | | |
| Ms. Duarte | | | | | | | x |
| Mr. Monaghan | | X | | X | X | | |
| Mr. Orlins | X | | X | | X | | |
| Mayor Neibart | | | | | X | | |

ORDINANCE FOR SECOND READING / PUBLIC HEARING

11-2021 An Ordinance of the Township Committee of the Township of Mendham Amending and Supplementing Ordinance No. 11-2019 Fixing the Salaries of Certain Officers and Employees of the Township of Mendham in the County of Morris, New Jersey - *Public hearing scheduled for August 16, 2021*

| TOWNSHIP COMMITTEE | MOTION | SECOND | MOTION TO CALL THE QUESTION | SECOND | ROLL CALL | | |
|--------------------|--------|--------|-----------------------------|--------|-----------|----|---------|
| | | | | | YES | NO | ABSTAIN |
| Mr. Baio | X | | X | | X | | |
| Ms. Duarte | | | | | | X | |
| Mr. Monaghan | | | | X | X | | |
| Mr. Orlins | | X | | | X | | |
| Mayor Neibart | | | | | X | | |

Ms. Duarte explained she is voting ‘no’ for previously stated reasons.

OPEN TO THE PUBLIC

Ms. Duarte made a motion to open the meeting to the public. Mr. Monaghan seconded.

No public comments were made.

Mr. Orlins made a motion to close to the public. Mr. Monaghan seconded.

FOR INFORMATIONAL PURPOSES ONLY

Second Reading and Public Hearing scheduled for September 13, 2021

Ordinance No.12-2021 - An Ordinance of the Township Committee of the Township of Mendham Amending and Supplementing Chapter 21 of the Ordinances of the Township ‘Zoning’ By Adding a New Classification of Use, The M-1 Municipal Use Zone

OPEN TO THE PUBLIC

Ms. Duarte made a motion to open the meeting to the public; Seconded by Mr. Baio.

Peter Banos – 47 Ironia Road - Mr. Banos questioned how resident experts and attorneys communicate with township experts at the Planning Board meetings. Mr. Mills explained the process is similar to a court trial. Mr. Banos asked for clarification of the agriculture exemption in the ordinance to which Mayor Neibart suggested that he send his specific questions to her in an email.

Diana Orban Brown - Ironia Rd. – Ms. Orban Brown pointed out what she thinks is an inconsistency in the noise ordinance regarding times. She also suggested that a reference to fireworks be included in the ordinance.

Patricia Zimmerman – 3 West Main Street - Ms. Zimmerman suggested that the noise ordinance address drivers without mufflers. Ms. Zimmerman mentioned that Anatole will be installing 4 windows and 2 doors on the Seed House but he does not do masonry.

Terrill Doyle – 5 Cross Way - Ms. Doyle suggested that Planning Board procedures be written out for the public. She also commented that she felt the Committee did not meet or explain the purpose of the ordinances put forth tonight. She questioned how the Committee decided on decibel levels for the noise ordinance and she felt they were too high.

George Koenig – 13 Northgate Rd. – Mr. Koenig referred to the NJDEP site definition of noise versus nuisance and that this code should be considered a model, and he commented that the ordinance should not be burdensome to such entities as churches. He also commented on agriculture rules as they relate to background music.

Mr. Orlins moved to close the meeting to the public. Ms. Duarte seconded.

Mayor Neibart responded to the question posed in public forum about the intent of the noise ordinance. The mayor reiterated Chief Johnson’s explanation that the township looks to a fair and enforceable quantifiable ordinance.

Mayor Neibart addressed the question of written Planning Board rules; Mr. Monaghan will follow up with Ms. Foley.

A conversation regarding the renewal of the lease for the Cider Mill ensued. Ms. Coppinger will include the topic for discussion on the next agenda.

Mayor Neibart mentioned that regarding the Hillandale project, she will be attending the Planning Board meeting and speaking during the public forum. She was asked by Peapack Gladstone to request a resolution be included on the next agenda to expedite the paving of the road before the fall. The mayor requested that the August 31 meeting remain on the schedule in the event that the Hillandale project is approved, so that the paving resolution can be approved.

DISCUSSION

Construction Project Update

Mr. Casey reported that the construction bid was (conditional) awarded and the notice to proceed will go out next month. An agreement has been met with State Historic Preservation Office (SHPO) on the exterior of the municipal building. The demolition of the building at 4 West Main Street was successful.

Dismal Harmony Trail Location

Mr. Casey reported that he received a complaint from several residents on Woodlawn that a portion of the trail is on their property, and a survey provided by them confirms this. They are requesting that the trail be removed from their properties. Mr. Casey recommended that until further research is done to verify this, that the trail along Woodland be closed. Mr. Baio requested that Attorney Mills research whether there are any 'ancient' laws in the state that supersede property rights. It was agreed that the trail would be closed at Shores Road and Woodlawn Road. The police department will handle the safety issues that could be posed by chains and cables that are installed by property owners.

Ms. Duarte made a motion to approve. Mr. Baio seconded. All present voted to approve.

Tax Bill Inserts

Mayor Neibart proposed two inserts to the tax bills:

1. Letter to residents regarding the new police facility
2. Pitney fundraiser campaign information
3. Ms. Duarte suggested adding information regarding volunteering

Pitney Updates

Mr. Monaghan explained that the goal of the Pitney Fundraising Campaign is to support the park and defray the cost of maintenance. The Recreation home page has links to Community Pass for donations. Raking and seeding starts in a few weeks. Mr. Monaghan thanked the stakeholders for all of their work on the park. The Grand Opening is scheduled for September 13th.

Motion to adjourn at 10:38pm made by Mr. Baio; seconded by Mr. Orlins.

Respectfully submitted,

Distributed: 03/15/2022

Approved: 03/28/2022

Maria F. Coppinger
Township Clerk

ORDINANCE NO. 13-2021
AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM
AMENDING CHAPTER 229 “NOISE”

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MENDHAM, NEW JERSEY, AS FOLLOWS:

SECTION 1. Existing Chapter 229 entitled “NOISE” is hereby deleted in its entirety and replaced with the following new Chapter 229 entitled “Noise

Chapter 229. Noise

§ 229-1. Specific noise prohibitions.

- A. Unless exempted under the provisions of this article, no person shall cause to be made, directly or indirectly, any loud noise which disturbs, injures or endangers the health, comfort, safety or welfare of others within the Township of Mendham.
- B. The following specific acts are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive:
 - i) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, bus, truck or other vehicle on any street, road or public place, except as a warning pursuant to the provisions of N.J.S.A. 33:3-69, a whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is for any reason held up.
 - ii) Radio and television sets, phonographs, etc. The use of any radio or television receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with volume louder than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
 - iii) Loudspeakers and amplifiers for advertising. The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising.
 - iv) Exhausts. The discharge into the open air of the exhaust of any internal-combustion engine except through an adequate muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - v) Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for a period of three days or less while the emergency continues.
 - vi) Schools, courts, churches. The creation of any excessive noise adjacent to any school, institution of learning, house of worship or judicial court while the same are in use, provided that conspicuous signs are displayed on the adjacent streets indicating that the same is a school, church or court street. **£1 1**
[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - vii) Hawkers and peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

- viii) Drums, bells and the like. The use of any drum, bell, horn, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show or sale or display of merchandise by any creation of noise or sound.
 - ix) Mobile loudspeakers. The use of mechanical loudspeakers or amplifiers on vehicles or aircraft for commercial advertising purposes.
 - x) Yelling, shouting and the like. Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or any persons in the vicinity.
- C. If any person who is not exempted under the provisions of this article shall cause to be made any of the noises prohibited under this article, and if said noises shall be proved to be in violation of the sound levels prescribed herein, said proof shall be sufficient to prove a violation of this article.

§ 229-2. Exceptions.

The prohibitions contained in this article shall not apply to persons:

- A. Who are engaged in the performance of any public or governmental function, such as the sounding of a church or school bell or a police, fire, ambulance, air raid or like disaster warning, alert or alarm, whether such alarm is for an actual emergency purpose or for practice or drilling purposes.
- B. Who are engaged in religious, charitable, recreational, civic or political activity by means of a sound truck or other amplifying device, for nonprofit purposes, provided that such persons shall have first filed with the Mayor and Borough Council of the Township of Mendham an application for a permit setting forth the sponsorship, date, hours and routes of such activity and the Mayor and Borough Council shall have issued a permit after having ascertained that such activity is not in conflict, in terms of hours, route, traffic volume and like factors, with any other previously scheduled activity.
- C. Who are engaged in any activity specifically permitted or required by any ordinance, resolution, statute or governmental regulation.

§ 229-3. Additional remedy.

As an additional remedy, the maintenance or operation of any device, instrument, vehicle or machinery in violation of any provision hereof which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health, or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 229-4. Violations and penalties.

Violation of any of the provisions of this article shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty. Section 1-17

Chapter 229. Noise General Noise Regulations

§ 229-5. Definitions.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this article have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

DEMOLITION

Any dismantling, destruction or removal of buildings, structures or roadways.

DEPARTMENT

The New Jersey Department of Environmental Protection.

EMERGENCY WORK

Any work or action necessary to deliver essential public services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

IMPULSIVE SOUND

Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MOTOR VEHICLE

Any vehicle that is propelled other than by human or animal power on land.

MUFFLER

A properly functioning sound-dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

MULTI-DWELLING-UNIT BUILDING

Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple-family houses, townhouses and attached residences.

MULTI-USE PROPERTY

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

NOISE CONTROL OFFICER

An employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities; or a municipality with a department-approved noise control ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

PLAINLY AUDIBLE

Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The Noise Control Officer need not determine the title, specific words or the artist performing the song.

PRIVATE RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a nongovernmental entity.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

REAL PROPERTY LINE

Either:

- A. The imaginary line, including its vertical extension, that separates one parcel of real property from another;
- B. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling-unit building; or
- C. On a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

WEEKDAY

Any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKENDS

Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 229-6. Applicability.

- A. This article applies to sound from the following property categories:
 - i) Industrial facilities;
 - ii) Commercial facilities;
 - iii) Public service facilities;
 - iv) Community service facilities;
 - v) Residential properties;
 - vi) Multi-use properties;
 - vii) Public and private rights-of-way;
 - viii) Public spaces; and
 - ix) Multi-dwelling-unit buildings.
- B. This article applies to sound received at the following property categories:
 - i) Commercial facilities;
 - ii) Public service facilities;
 - iii) Community service facilities;
 - iv) Residential properties;
 - v) Multi-use properties; and
 - vi) Multi-dwelling-unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.3, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 229-7. Declaration of findings and policy.

- A. Whereas, excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and whereas, a substantial body of science and technology exists by which excessive sound may be substantially abated; and whereas, the people have a right to, and should be ensured of, an environment free from excessive sound.

- B. Now, therefore, it is the policy of the Township of Mendham to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.
- C. This article shall apply to the control of sound originating from sources within the Township of Mendham.

§ 229-8. Noise Control Officers.

- A. The provisions of this article shall be enforced by Noise Control Officers. A person shall be qualified to be a Noise Control Officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Department in N.J.A.C. 7:29-2.11, a noise certification and recertification course which are offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University of New Jersey, or any other noise certification or recertification course which is offered by an accredited university and approved by the Department.
- B. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in § 229-9B and C of this article and with the definition of "real property line" as contained herein.
- C. Noise Control Officers shall have the power to:
 - i) Coordinate the noise control activities of all departments in the Township of Mendham and cooperate with all other public bodies and agencies to the extent practicable.
 - ii) Review the actions of the Township of Mendham and advise of the effect, if any, of such actions on noise control.
 - iii) Review public and private projects subject to mandatory review or approval by other departments or boards for compliance with this article.
 - iv) Investigate and pursue possible violations of this article for sound levels which equal or exceed the sound levels set forth in Tables I and II when measured at a receiving property located within the designated jurisdiction of the Noise Control Officer, in accordance with § 229-11 below.
 - v) Cooperate with noise control officers of adjacent municipalities in enforcing one another's municipal noise ordinances.

§ 229-9. Maximum permissible sound levels.

- A. No person shall cause, allow or permit the operation of any source of sound on any source property listed in § 229-6A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in Subsection B below.C1 1
 [1] Editor's Note: Tables I and II are included at the end of this chapter.
- B. When measuring total sound or residual sound within a multi-use property or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room most affected by the noise. Residual sound shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use, such as hallways, closets and bathrooms.
- C. Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling-unit building. In addition, indoor measurements shall be taken if the property line between the receiving property and the

source property is a common wall, such as in multi-dwelling-unit building. The allowable sound level standards for indoors are as shown in Tables I and II.

- D. Impulsive sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as impulsive sound and shall meet the requirements as shown in Table I.
 - i) Table I, Maximum Permissible A-Weighted Sound Levels^{PI}
[2] Editor's Note: Table I is located at the end of this chapter.
 - ii) Table 11, Maximum Permissible Octave Band Sound Pressure Levels in Decibels.^{I31}
[3] Editor's Note: Table II is located at the end of this chapter.

§ 229-10. Restricted uses and activities.

- A. Exemptions.
 - i) Except as provided in Subsection B below, the provisions of this article shall not apply to the exceptions listed at N.J.A.C. 7:29-1.4.
 - ii) Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II, except as provided for in Subsection B below.
 - iii) Snow and ice removal activities conducted within 24 hours following the end of the weather event.
- B. Notwithstanding the provisions of Tables I and II, the following standards shall apply to the activities or sources of sound set forth below:
 - (i) Noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 7:00 p.m. and 8:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II shall apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment.
 - (ii) Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property, or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 7:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays. In addition, at all other times, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Tables I and II. All motorized equipment used in these activities shall be operated with a muffler.
- C.
 - i) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities.
 - ii) Motorized snow blowers, snow throwers, and lawn equipment with attached snowplows shall be operated at all times with a muffler.
 - iii) An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five minutes for

continuous airborne sound and 15 minutes for impulsive sound after it has been activated.

- iv) Personal or commercial vehicular-music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a residential property line between the hours of 10:00 p.m. and 8:00 a.m.
- v) Personal vehicular-music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.
- vi) Self-contained portable handheld music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.
- vii) Sound levels exceeding the limits set forth in Table I and Table II shall be prohibited between residential units within the same multi-dwelling-unit building. Measurements shall be taken indoors as per § 229-9B and C.

§ 229-11. Enforcement.

- A. Violation of any provision of this article shall be cause for an enforcement document to be issued to the violator by the Noise Control Officer according to procedures set forth in N.J.A.C. 7:29-1.6. The recipient of an enforcement document shall be entitled to a hearing in the Municipal Court having jurisdiction to contest such action.
- B. Any person who violated any provision of this article shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.
- C. No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy therefrom of any person for injury or damage arising from any violation of this article or from other law.

Noise
229 Attachment 1

Township of Mendham
Table I
Maximum Permissible A-Weighted Sound Levels

No person shall cause, allow, or permit the operation of any source of sound on any source property listed in § 229-6A in such a manner as to create a sound level that equals or exceeds the sound levels listed below.

| | Receiving Property Category | | | | | |
|---|---|-------------------------|---------------------------------------|-------------------------|--|--|
| | Residential Property or Residential Portion of a Multi-Use Property | | | | Commercial Facility, Public Service Facility, Nonresidential Portion of a Multi-Use Property or Community Service Facility | Commercial Facility* or Nonresidential Portion of a Multi-Use Property |
| | Outdoors | | Indoors | | Outdoors | Indoors |
| Octave Band Center Frequency (Hz) | Octave Band Sound Pressure Level (dB) | | Octave Band Sound Pressure Level (dB) | | Octave Band Sound Pressure Level (dB) | Octave Band Sound Pressure Level (dB) |
| Time | 7:00 a.m. to 10:00 p.m. | 10:00 p.m. to 7:00 a.m. | 7:00 a.m. to 10:00 p.m. | 10:00 p.m. to 7:00 a.m. | 24 hours | 24 hours |
| Maximum A-weighted sound level standard, dB | 65 | 50 | 55 | 40 | 65 | 55 |

* Note: In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.

**Table II,
Maximum Permissible Octave Band Sound Pressure Levels in Decibels**

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 229-6A in such a manner as to create a sound pressure level that equals or exceeds the sound levels listed below in one or more octave bands.
2. When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus two decibels in the bands containing the principal source frequencies, discontinue the measurement.

| | Receiving Property Category | | | | | |
|-----------------------------------|---|-------------------------|---------------------------------------|-------------------------|--|--|
| | Residential Property or Residential Portion of a Multi-Use Property | | | | Commercial Facility, Public Service Facility, Nonresidential Portion of a Multi-Use Property or Community Service Facility | Commercial Facility* or Nonresidential Portion of a Multi-Use Property |
| | Outdoors | | Indoors | | Outdoors | Indoors |
| Octave Band Center Frequency (Hz) | Octave Band Sound Pressure Level (dB) | | Octave Band Sound Pressure Level (dB) | | Octave Band Sound Pressure Level (dB) | Octave Band Sound Pressure Level (dB) |
| Time: | 7:00 a.m. to 10:00 p.m. | 10:00 p.m. to 7:00 a.m. | 7:00 a.m. to 10:00 p.m. | 10:00 p.m. to 7:00 a.m. | 24 hours | 24 hours |
| 31.5 | 96 | 86 | 86 | 76 | 96 | 86 |
| 63 | 82 | 71 | 72 | 61 | 82 | 72 |
| 125 | 74 | 61 | 64 | 51 | 74 | 64 |
| 250 | 67 | 53 | 57 | 43 | 67 | 57 |
| 500 | 63 | 48 | 53 | 38 | 63 | 53 |
| 1,000 | 60 | 45 | 50 | 35 | 63 | 50 |
| 2,000 | 57 | 42 | 47 | 32 | 57 | 47 |
| 4,000 | 55 | 40 | 45 | 30 | 55 | 45 |
| 8,000 | 53 | 38 | 43 | 28 | 53 | 43 |

SECTION 2.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION 3.

All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4.

This Ordinance shall take effect after final passage and publication pursuant to law.

INTRODUCED: 8/13/2021

ADVERTISED:

PUBLIC HEARING: 9/12/2021

ADOPTED:

ADVERTISED:

ATTEST:

TOWNSHIP OF MENDHAM,
IN THE COUNTY OF MORRIS

Maria F. Coppinger Township Clerk

Sarah Neibart, Mayor

**TOWNSHIP OF MENDHAM
MORRIS COUNTY – NEW JERSEY**

ORDINANCE 14-2021

**AN ORDINANCE OF THE TOWNSHIP OF MENDHAM PROVIDING FOR VARIOUS CAPITAL
IMPROVEMENTS AND APPROPRIATING \$100,000 THEREFOR FROM THE CAPITAL
IMPROVEMENT FUND**

BE IT ORDAINED by the Township Committee of the Township of Mendham, in the County of Morris, New Jersey, as follows:

Section 1. The funding for the following Capital Improvements is hereby authorized and such cost is not to exceed \$100,000: All expenses relating to the construction and occupancy of a new police facility located at 4 West Main Street, Brookside.

Section 2. The funding for the above stated Capital Improvement Various Improvements is hereby appropriated from the Capital Improvement Fund.

Section 3. This ordinance shall take effect and adoption following passage and publication as provided by law.

INTRODUCED: 8/16/2021

ADVERTISED:

PUBLIC HEARING: 9/13/2021

ADOPTED:

ADVERTISED:

ATTEST:

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Maria Coppinger, Township Clerk

Sarah Neibart, Mayor

**TOWNSHIP OF MENDHAM
MORRIS COUNTY – NEW JERSEY**

ORDINANCE 11-2021

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM
AMENDING AND SUPPLEMENTING ORDINANCE NO. 11-2019 FIXING THE SALARIES OF CERTAIN
OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MENDHAM IN THE COUNTY OF MORRIS,
NEW JERSEY**

WHEREAS, N.J.S.A. 40A-165 permits a municipality to establish salaries, wages, or compensation to be paid to the officers and employees of the municipality; and

WHEREAS, the Township Committee have made a careful examination of the salaries, wages and compensation appropriate to the compensation of said Township employees.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Mendham, in the County of Morris, New Jersey, that the below stated titles and compensation shall be amended / created upon adoption of this ordinance as follows:

| Title | Annual Salary | |
|--------------------------|---------------|--------------|
| | Minimum | Maximum |
| Chief Financial Officer | \$180,000 | \$200,000 |
| Administrative Assistant | \$50 per hr. | \$70 per hr. |

1. The specific salary to be paid each officer and employee within the ranges set forth in Section 1 shall be determined by Resolution adopted by the Township Committee of the Township of Mendham.
2. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.
3. This ordinance shall take effect August 16, 2021.

INTRODUCED: 7/26/2021

ADVERTISED: 7/30/2021

PUBLIC HEARING: 8/16/2021

ADOPTED:

ADVERTISED:

ATTEST:

TOWNSHIP OF MENDHAM,
IN THE COUNTY OF MORRIS

Maria F. Coppinger Township Clerk

Sarah Neibart, Mayor